

- Group III - Claims 36-38, drawn to antibodies, classified in class 530, subclass 387.1
- Group IV - Claims 40-41 and 45, drawn to nucleic acid vaccines and methods of vaccination, classified in at least class 514, subclass 44, for example.
- Group V - Claims 42-43, drawn to methods of treatment using polypeptides, classified in class 514, subclass 12.
- Group VI - Claim 44, drawn to methods of treatment using antibodies, classified in at least class 424, subclass 130.1, for example.

In accordance with 35 U.S.C. §121, Applicant hereby elects to prosecute the claims of Group I, drawn to polypeptides, classified in class 530, subclass 350, with traversal. Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, and are patentable over each other" (MPEP 802.01). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

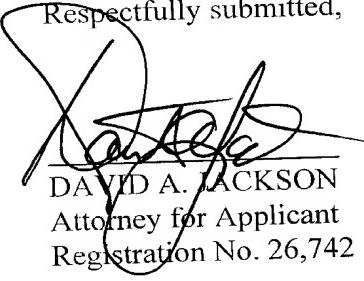
Under Patent Office examining procedures, "If the search and examination of an entire application can be made without serious burden, the Examiner is encouraged to examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988).

Specifically, Applicants submit that at least the methods of treatment of Group V are sufficiently related to the polypeptides of Group I as to be properly includable therewith for purposes of examination. Any search for the latter would require a search of the former. For this reason, withdrawal of the requirement for restriction is believed to be in order.

For the above reasons, Applicants request withdrawal of the Requirement for Restriction, and early action on the merits as to all of the claims presently pending in the case.

In view of the above, early action on the merits is courteously solicited.

Respectfully submitted,

  
DAVID A. JACKSON  
Attorney for Applicant  
Registration No. 26,742

KLAUBER & JACKSON  
411 Hackensack Avenue  
Hackensack, NJ 07601  
(201) 487-5800